

**The EPA's Action on Idaho's Revised Site-Specific Criteria for Temperature
For the Hells Canyon Reach of the Snake River
Submitted June 8, 2012**

Final Agency Action – Communication Plan

**Desk statement: EPA's Approval of Idaho's Site-Specific Criteria (SSC) for Temperature to
Protect Aquatic Life in the Snake River**

The EPA has approved Idaho's revised site-specific criteria for temperature after finding that the SSC is consistent with the Clean Water Act and its implementing regulations. Idaho's revised SSC applies water quality criteria of 14.5°C from October 23 through November 6, and 13°C from November 7 through April 15, (as weekly maximum temperatures, also known as 7-day averages of the daily maxima or 7dadm) to protect fall-run Chinook spawning. The criteria are applicable to Idaho waters of the Snake River, from below the Hells Canyon Dam to its confluence with the Salmon River. Because the Snake River is a shared waterbody between Idaho and Oregon, and federal regulations require protection of downstream waters, the Oregon temperature criterion of 13°C as a 7dadm, from October 23 to April 15, continues to apply.

Key Messages

The EPA Region 10 has approved Idaho's revised Site-Specific Criteria for Temperature for the Snake River from the Hells Canyon Dam to its confluence with the Salmon River at IDAPA 58.01.02.286.

Background

- The federal water quality standards regulation at 40 CFR Part 131 requires that states and authorized tribes adopt designated uses for their waters, water quality criteria to protect those designated uses, and an antidegradation policy.
- On June 8, 2012, Idaho submitted revised site-specific temperature criteria to protect aquatic life to EPA for the Agency's review and action.
- A mandatory duty lawsuit was filed by Idaho Power Company on June 4, 2018 and notice of intent to sue by the State of Idaho was filed on June 29, 2018, asserting that the EPA had violated its mandatory duty to take action on the submittal within the time specified by the Clean Water Act.
- The EPA has reviewed the submittal and determined that the water quality standard revision at IDAPA 58.01.02.286 is consistent with the federal regulations at 40 CFR 131.11 and is protective of the most sensitive aquatic life designated use.
- In the September 25, 2019, Endangered Species Act Section 7(a)(2) Biological Opinion, the National Marine Fisheries Service found that the approval of the revised site-specific temperature criteria, although likely to adversely affect Snake River Fall Chinook spawning,

would not jeopardize the Snake River Fall Chinook ESU (Evolutionarily Significant Unit). The Biological Opinion also concluded that the Agency's action is not likely to adversely affect other threatened and endangered species present in the action area, or their designated critical habitats.

- Likewise, in a letter of concurrence, the U.S. Fish and Wildlife Services found that the Agency's action is not likely to adversely affect bull trout or its designated critical habitat.
- The EPA, in its approval of the SSC, was informed by NMFS' finding that the Agency's action will not jeopardize the Snake River fall-run Chinook ESU at the population level.
- Because fall-run Chinook spawning is the most sensitive life stage of coldwater fish use in the area to which the SSC applies, the EPA concluded that the SSC also protects other aquatic life uses within this stretch of the Snake River in Idaho.
- The Snake River is a shared waterbody between Idaho and Oregon, and in accordance with the requirements at 40 CFR 131.10(b), states must "take into consideration the water quality standards of downstream waters and shall ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters." Therefore, the Oregon temperature criterion of 13°C, from October 23 to April 15, continues to apply.
- In May 2019, the states of Idaho and Oregon issued Clean Water Act section 401 water quality certifications for the Idaho Power Company's Federal Energy Regulatory Commission re-license of the Hells Canyon Complex hydroelectric project. Those 401 certifications were based on the 13°C spawning criteria.

Communication Plan

Stakeholder and Contact information	Who	Method
<input type="checkbox"/> Idaho DEQ Mary Ann Nelson, Water Quality Division Administrator Jason Pappani, Surface Water Bureau Chief	Opalski (or Grandinetti) Shaw	Call Mary Ann day-of; Email signed letter and decision document.
<input type="checkbox"/> Oregon DEQ Jennifer Wigal, Deputy Water Quality Administrator Connie Dou, Water Quality Standards & Assessments Manager	Opalski (or Grandinetti) Shaw	Heads up phone call Email signed letter and decision document.

Stakeholder and Contact information	Who	Method
<input type="checkbox"/> Ecology Melissa Gildersleeve, Section Manager, Water Quality Program Chad Brown, Water Quality Management Unit	Shaw	Email signed letter and decision document.
<input type="checkbox"/> EPA Region 10 management: Angela Chung, Cami Grandinetti, JB, Cara Steiner-Riley, Mat Martinson, Dave Croxton, Susan Poulsom, Jim Werntz WQS Unit Staff, John Palmer, Lil Herger HQ OST: Corey Buffo, Erica Fleisig OGC: Steve Sweeney Region 10 Public Affairs: Marianne Holsman	Shaw Labiosa Labiosa JB Shaw	Heads up to Jim Werntz day prior; Email signed letter and decision document. Above w/communication plan.
<input type="checkbox"/> Tribes Idaho tribal environmental contacts	Labiosa	Email signed letter and decision document.
<input type="checkbox"/> Services USFWS: Jason Flory, Michael Morse NMFS: Johnna Sandow, Ritchie Graves	Labiosa	Email signed letter and decision document.
<input type="checkbox"/> Parties to the Lawsuit DOJ: Michele Walter; michele.walter@usdoj.gov IPC Idaho AG	JB/Sweeney	Email signed letter and decision document.

Additional Tasks

- ☐ Update WATA.
- ☐ Complete Administrative Record.
- ☐ Post decision document on website.

Proactive or reactive posture: Reactive. No press outreach is planned. Desk statement prepared (see above)

Other potential communication/education/outreach opportunities: None planned.